

AMENDED IN SENATE MARCH 10, 2006

AMENDED IN ASSEMBLY MAY 31, 2005

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1407

Introduced by Assembly Member ~~Oropeza~~ Lieber

February 22, 2005

~~An act relating to the environment. An act to amend Section 30914.5 of the Streets and Highways Code, and to amend Section 5205.5 of the Vehicle Code, relating to transportation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1407, as amended, ~~Oropeza~~ Lieber. ~~Off-road diesel fuel. State-owned Bay Area toll bridges.~~

(1) Existing law specifies the respective powers and duties of the Bay Area Toll Authority and the Department of Transportation relative to the operation of the state-owned Bay Area toll bridges and the allocation of toll bridge revenues. Existing law establishes an expenditure plan that includes a project list for the toll revenues derived from increasing the bridge tolls from \$2 to \$3.

This bill would modify certain of the duties required of local and regional agencies relative to that expenditure plan, thereby imposing a state-mandated local program.

(2) Existing law provides for the Department of Transportation to designate certain lanes for exclusive use of buses and high-occupancy vehicles (HOVs), which lanes may also be used by certain low-emission and hybrid vehicles displaying a valid identifier issued by the Department of Motor Vehicles until January 1, 2008. Existing

law authorizes, but does not require, the Bay Area Toll Authority to grant toll-free and reduced-rate passage on the state-owned Bay Area toll bridges to buses and specified carpool vehicles. Existing law requires access to HOV lanes leading to the bridges to be extended to certain low-emission vehicles and hybrid vehicles displaying the identifier issued by the Department of Motor Vehicles, subject to various conditions.

This bill would revise those conditions to specify that an owner of a hybrid vehicle registered in the 9-county Bay Area who seeks the vehicle identifier in order to use the preferential HOV lanes leading to the state-owned toll bridges is also required to obtain and maintain an active account in the automated toll payment system for the purpose of paying tolls if the vehicle is not operating with the number of passengers otherwise required for toll-free or reduced-rate passage on those bridges.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Under the Diesel Fuel Tax Law, a tax is imposed on the removal of diesel fuel from various storages, as specified.~~

~~This bill would require, on or before March 1, 2006, the State Air Resources Board to report to the Legislature on the efficacy of imposing a fee of 5¢ per gallon of off-road diesel fuel as a means of generating revenue to fund projects that mitigate the past, present, and future harm to public health resulting from off-road diesel fuel in the state. The bill would also make findings and declarations relating to air quality and diesel exhaust.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30914.5 of the Streets and Highways
- 2 Code is amended to read:

1 30914.5. (a) Prior to the allocation of revenue for transit
2 operating assistance under subdivision (d) of Section 30914, the
3 Metropolitan Transportation Commission shall adopt
4 performance measures related to fare-box recovery, ridership,
5 and other performance measures as needed. The performance
6 measures shall be developed in consultation with the affected
7 transit operators and the commission's advisory council.

8 (b) The Metropolitan Transportation Commission shall
9 execute an operating agreement with the sponsors of the projects
10 described in subdivision (d) of Section 30914. This agreement
11 shall include, at a minimum, a fully funded operating plan that
12 conforms to and is consistent with the adopted performance
13 measures. The agreement shall also include a schedule of
14 projected fare revenues or other operating revenues to indicate
15 that the service is viable in the near-term and is expected to meet
16 the adopted performance measures in future years. For any
17 individual project sponsor, this operating agreement may include
18 additional requirements, as determined by the commission, to be
19 met prior to the allocation of transit assistance under subdivision
20 (d) of Section 30914.

21 (c) Prior to the annual allocation of transit operating assistance
22 funds by the Metropolitan Transportation Commission pursuant
23 to subdivision (d) of Section 30914, the Metropolitan
24 Transportation Commission shall conduct, or shall require the
25 sponsoring agency to conduct, an independent audit that contains
26 audited financial information, including an opinion on the status
27 and cost of the project and its compliance with the approved
28 performance measures. Notwithstanding this requirement, each
29 operator shall be given a one-year trial period to operate new
30 service. In the first year of new service, the sponsor shall develop
31 a reporting and accounting structure for the performance
32 measures. Commencing with the third operating year, sponsors
33 shall be subject to the approved performance measures.

34 (d) The Metropolitan Transportation Commission shall adopt
35 a regional transit connectivity plan by May 1, 2006. The
36 connectivity plan shall be incorporated into the commission's
37 Transit Coordination Implementation Plan pursuant to Section
38 66516.5 of the Government Code. The connectivity plan shall
39 require operators to comply with the plan utilizing commission
40 authority pursuant to Section 66516.5 of the Government Code.

1 The commission shall consult with the Partnership Transit
2 Coordination Council in developing a plan that identifies and
3 evaluates opportunities for improving transit connectivity and
4 shall include, but not be limited to, the following components:

5 (1) A network of key transit hubs connecting regional rapid
6 transit services to one another, and to feeder transit services.
7 “Regional rapid transit” means long-haul transit service that
8 crosses county lines, and operates mostly in dedicated
9 rights-of-way, including freeway high-occupancy vehicle lanes,
10 crossing a bridge, or on the bay. The identified transit hubs shall
11 operate either as a timed transfer network or as pulsed hub
12 connections, providing regularly scheduled connections between
13 two or more transit lines.

14 (2) Physical infrastructure and right-of-way improvements
15 necessary to improve system reliability and connections at transit
16 hubs. Physical infrastructure improvements may include, but are
17 not limited to, improved rail-to-rail transfer facilities, including
18 cross-platform transfers, and intermodal transit improvements
19 that facilitate rail-to-bus, rail-to-ferry, ferry-to-ferry, ferry-to-bus,
20 and bus-to-bus transfers. Capital improvements identified in the
21 plan shall be eligible for funding in the commission’s regional
22 transportation plan.

23 (3) Regional standards and procedures to ensure maximum
24 coordination of schedule connections to minimize transfer times
25 between transit lines at key transit hubs, including, but not
26 limited to, the following:

27 (A) Policies and procedures for improved fare collection.

28 (B) Enhanced trip-planning services, including Internet-based
29 programs, telephone information systems, and printed schedules.

30 (C) Enhanced schedule coordination through the
31 implementation of real-time transit-vehicle location systems that
32 facilitate communication between systems and result in improved
33 timed transfers between routes.

34 (D) Performance measures and data collection to monitor the
35 performance of the connectivity plan.

36 The connectivity plan shall focus on, but not be limited to,
37 feeder transit lines connecting to regional rapid transit services,
38 and the connection of regional rapid transit services to one
39 another. The connectivity plan shall be adopted following a
40 Metropolitan Transportation Commission public hearing at least

60 days prior to adoption. The commission shall adopt performance measures and collect appropriate data to monitor the performance of the connectivity plan. The plan shall be evaluated every three years by the commission as part of the update to its regional transportation plan. No agency shall be eligible to receive funds under this section unless the agency is a participant operator in the commission's regional transit connectivity plan.

The provisions of this subdivision shall only be effective if the voters approve the toll increase as set forth in Section 30921, and the expenditures incurred by the Metropolitan Transportation Commission up to five hundred thousand dollars (\$500,000) that are related to the requirements of this subdivision, including any study, shall be reimbursed from toll revenues identified in paragraph (33) of subdivision (c) of Section 30914.

(e) The TransLink Consortium, per the TransLink Interagency Participation Agreement, shall by July 1, 2007, develop a plan for an integrated fare program covering all regional rapid transit trips funded in full or in part by this section. "Regional rapid transit" means long-haul transit services that cross county lines, and operate mostly in dedicated rights-of-way, including freeway high-occupancy vehicle lanes, crossing a bridge, or on the bay. Interregional rail services, originating or terminating from outside the Bay Area, shall not be considered regional rapid transit. The purpose of the integrated fare program is to encourage greater use of the region's transit network by making it easier and less costly for transit riders whose regular commute involves multizonal travel and may involve the transfer between two or more transit agencies, including regional-to-regional and regional-to-local transfers. The integrated fare program shall include a zonal fare system for the sole purpose of creating a monthly zonal pass (monthly pass), allowing for unlimited or discounted fares for transit riders making a minimum number of monthly transit trips between two or more zones. The number of minimum trips shall be established by the plan. The integrated fare program shall not apply to fare structures that are not purchased on a monthly basis. For the purposes of these zonal fares, geographic zones shall be created in the Bay Area. To the extent practical, zone boundaries for overlapping systems shall be in the same places and shall correspond to the boundaries of the local transit service areas. A regional rapid transit zone may

1 cover more than one local service area, or may subdivide an
2 existing local service area. The monthly pass shall be created in
3 at least the following two forms:

4 (1) For the use of interzonal regional rapid transit trips without
5 local transit discounts.

6 (2) For the use of interzonal regional rapid transit trips with
7 local transit discounts. The plan may recommend the elimination
8 of existing transit pass arrangements to simplify the marketing of
9 the monthly pass. The integrated fare program shall establish a
10 monitoring program to evaluate the impact of the integrated fare
11 program on the operating finances of the participating agencies.
12 The integrated fare program shall be adjusted as necessary to
13 ensure that the program does not jeopardize the viability of local
14 or regional rapid transit routes impacted by the program, and to
15 the extent feasible, provide an equitable revenue-sharing
16 arrangement among the participating agencies. This subdivision
17 shall only be effective if the voters approve the toll increase as
18 set forth in Section 30921, and any expenditures related to the
19 implementation of this subdivision incurred by the TransLink
20 Consortium shall be reimbursed by toll revenues designated in
21 paragraph (34) of subdivision (c) of Section 30914.

22 (f) The Metropolitan Transportation Commission (MTC) shall,
23 by ~~July 1~~ September 29, 2007, adopt a Bay Area Regional Rail
24 Plan (plan) for the development of passenger rail services in the
25 San Francisco Bay Area over the short, medium, and long term.
26 *Up to six million dollars (\$6,000,000) of the funds described in*
27 *paragraph (33) of subdivision (c) of Section 30914 may be*
28 *expended by MTC, the San Francisco Bay Area Rapid Transit*
29 *District (BART), and the Peninsula Corridor Joint Powers Board*
30 *(Caltrain) for the plan. A project management team comprised of*
31 *staff from MTC, Caltrain, the High-Speed Rail Authority, and*
32 *BART shall provide day-to-day project management of the*
33 *technical development of the plan.* The plan shall formulate
34 strategies to integrate passenger rail systems, improve interfaces
35 with connecting services, expand the regional rapid transit
36 network, and coordinate investments with transit-supportive land
37 use. The plan shall be ~~governed~~ *directed* by a steering committee
38 consisting of appointees from the Department of Transportation
39 (Caltrans), ~~the San Francisco Bay Area Rapid Transit District~~
40 ~~(BART)~~ BART, Caltrain, the National Railroad Passenger

1 Corporation (Amtrak), the Capitol Corridor Joint Powers
2 Authority, the Altamont Commuter Express, the High-Speed Rail
3 Authority, ~~the Metropolitan Transportation Commission (MTC)~~
4 *MTC*, the Sonoma-Marín Area Rail Transit District (SMART),
5 the Santa Clara Valley Transportation Authority, the Solano
6 Transportation Authority, *the Association of Bay Area*
7 *Governments, the Transbay Joint Powers Authority, the Port of*
8 *Oakland, the Alameda County Congestion Management Agency,*
9 *the Contra Costa Transportation Authority, the Transportation*
10 *Authority of Marin, the Napa County Transportation Planning*
11 *Agency, the San Francisco County Transportation Authority, the*
12 *San Mateo City-County Association of Governments,* and the
13 owners of standard gauge rail. ~~Congestion management agencies~~
14 ~~and other agencies as determined by the steering committee shall~~
15 ~~be invited as nonvoting members. Under policy guidance~~
16 ~~direction from the steering committee and with input from Bay~~
17 ~~Area transit agencies, Caltrain, and BART shall provide~~
18 ~~day-to-day management and technical support for the~~
19 ~~development of this plan~~ *MTC shall act as the fiscal agent for the*
20 *study and oversee consultant contracts on behalf of the project*
21 *management team.* The plan proposals shall be evaluated using
22 performance criteria, including, but not limited to,
23 transit-supportive land use and access, ridership,
24 cost-effectiveness, regional network connectivity, and capital and
25 operating financial stability. Additional performance criteria shall
26 be developed as necessary. The plan shall include, but not be
27 limited to, all of the following:
28 (1) Identification of issues in connectivity, access, capacity,
29 operations and cost-effectiveness.
30 (2) Identification of opportunities to enhance rail connectivity
31 and to maximize passenger convenience when transferring
32 between systems, *including the study of the feasibility and*
33 *construction of an intermodal transfer hub at Niles (Shinn Street)*
34 *Junction.*
35 (3) Recommendation of improvements to the interface with
36 shuttles, buses, other rail systems, and other feeder modes.
37 (4) Identification of potential impacts on capacity constraints
38 and operations on existing passenger and freight carriers.
39 (5) Identification of bottlenecks where added capacity could
40 cost-effectively increase performance.

1 (6) Recommendation of potential efficiency improvements
2 through economies of scale, such as through joint vehicle
3 procurement and maintenance facilities.

4 (7) Recommendation of strategies to acquire right-of-way and
5 station property to preserve future service options.

6 (8) Identification of potential capital and operating funding
7 sources for proposed actions.

8 (9) Identification of locations where the presence of passenger
9 rail could stimulate redevelopment and thereby direct growth to
10 the urban core.

11 (10) Recommendation of technology appropriate service
12 expansion in specific corridors. Technologies to be considered
13 include conventional rail transit modes, bus rapid transit, and
14 emerging rail technologies. Identify phasing strategies for the
15 implementation of rail services where appropriate.

16 (11) Examination of how recommendations would integrate
17 with proposed high-speed rail to the Central Valley and southern
18 California. ~~Up to two million five hundred thousand dollars~~
19 ~~(\$2,500,000) of the funds described in paragraph (33) of~~
20 ~~subdivision (c) of Section 30914 may be expended by the~~
21 ~~Metropolitan Transportation Commission and the High-Speed~~
22 ~~Rail Authority to study Bay Area access to the high-speed rail~~
23 ~~system. Up to five hundred thousand dollars (\$500,000) of the~~
24 ~~funds described in paragraph (33) of subdivision (c) of Section~~
25 ~~30914 may be expended by the Metropolitan Transportation~~
26 ~~Commission and the High-Speed Rail Authority to study the~~
27 ~~feasibility and construction of an intermodal transfer hub at Niles~~
28 ~~(Shinn Street) Junction. The Metropolitan Transportation~~
29 ~~Commission and the High-Speed Rail Authority, or its successor,~~
30 ~~shall collaborate with a steering committee in conducting these~~
31 ~~studies. The intent of this element of the study is to reduce the~~
32 ~~number of alternatives that the High-Speed Rail Authority would~~
33 ~~need to evaluate as part of any follow-on environmental~~
34 ~~assessment of future high-speed rail system access to the Bay~~
35 ~~Area. Selection of a preferred alignment for the Bay Area shall~~
36 ~~remain the responsibility of the High-Speed Rail Authority~~
37 ~~pursuant to Section 185032 of the Public Utilities Code.~~

38 (12) Recommendation of a governance strategy to implement
39 and operate future regional ~~rapid transit~~ rail services.

1 This subdivision shall only be effective if the voters approve
2 the toll increase as set forth in Section 30921. Any expenditures
3 incurred by the Metropolitan Transportation Commission or the
4 project sponsors identified in paragraph (33) of subdivision (c) of
5 Section 30914 related to the requirements of this subdivision,
6 including any study and administration, shall be appropriate
7 charges against toll revenue to be reimbursed from toll revenues.

8 *SEC. 2. Section 5205.5 of the Vehicle Code is amended to*
9 *read:*

10 5205.5. (a) For the purposes of implementing Section
11 21655.9, the department shall make available for issuance, for a
12 fee determined by the department to be sufficient to reimburse
13 the department for the actual costs incurred pursuant to this
14 section, distinctive decals, labels, and other identifiers that
15 clearly distinguish the following vehicles from other vehicles:

16 (1) A vehicle that meets California's super ultra-low emission
17 vehicle (SULEV) standard for exhaust emissions and the federal
18 inherently low-emission vehicle (ILEV) evaporative emission
19 standard, as defined in Part 88 (commencing with Section
20 88.101-94) of Title 40 of the Code of Federal Regulations.

21 (2) A vehicle that was produced during the 2004 model year or
22 earlier and meets California ultra-low emission vehicle (ULEV)
23 standard for exhaust emissions and the federal ILEV standard.

24 (3) A hybrid vehicle or an alternative fuel vehicle that meets
25 California's advanced technology partial zero-emission vehicle
26 (AT PZEV) standard for criteria pollutant emissions and has a 45
27 miles per gallon or greater fuel economy highway rating.

28 (4) A hybrid vehicle that was produced during the 2004 model
29 year or earlier and has a 45 miles per gallon or greater fuel
30 economy highway rating, and meets California's ultra-low
31 emission vehicle (ULEV), super ultra-low emission vehicle
32 (SULEV), or partial zero-emission vehicle (PZEV) standards.

33 (b) Neither an owner of a hybrid vehicle that meets the AT
34 PZEV standard, with the exception of a vehicle that meets the
35 federal ILEV standard, nor an owner of a hybrid vehicle
36 described in paragraph (4) of subdivision (a), is entitled to a
37 decal, label, or other identifier pursuant to this section unless, and
38 until, the federal government acts to approve the use of
39 high-occupancy vehicle lanes by vehicles of the types identified

1 in paragraph (3) or (4) of subdivision (a), regardless of the
2 number of occupants.

3 (c) The department shall include a summary of the provisions
4 of this section on each motor vehicle registration renewal notice,
5 or on a separate insert, if space is available and the summary can
6 be included without incurring additional printing or postage
7 costs.

8 (d) The Department of Transportation shall remove individual
9 high-occupancy vehicle (HOV) lanes, or portions of those lanes,
10 during periods of peak congestion from the access provisions
11 provided in subdivision (a), following a finding by the
12 Department of Transportation as follows:

13 (1) The lane, or portion thereof, exceeds a level of service C,
14 as discussed in subdivision (b) of Section 65089 of the
15 Government Code.

16 (2) The operation or projected operation of the vehicles
17 described in subdivision (a) in these lanes, or portions thereof,
18 will significantly increase congestion.

19 The finding also shall demonstrate the infeasibility of
20 alleviating the congestion by other means, including, but not
21 limited to, reducing the use of the lane by noneligible vehicles, or
22 further increasing vehicle occupancy.

23 (e) The State Air Resources Board shall publish and maintain
24 a listing of all vehicles eligible for participation in the programs
25 described in this section. The board shall provide that listing to
26 the department.

27 (f) For purposes of subdivision (a), the Department of the
28 California Highway Patrol and the department, in consultation
29 with the Department of Transportation, shall design and specify
30 the placement of the decal, label, or other identifier on the
31 vehicle. Each decal, label, or other identifier issued for a vehicle
32 shall display a unique number, which number shall be printed on,
33 or affixed to, the vehicle registration.

34 (g) (1) For purposes of subdivision (a), the department shall
35 issue no more than 75,000 distinctive decals, labels, or other
36 identifiers that clearly distinguish the vehicles specified in
37 paragraphs (3) and (4) of subdivision (a).

38 (2) The department shall notify the Department of
39 Transportation immediately after the date on which the
40 department has issued 50,000 decals, labels, and other identifiers

1 under this section for the vehicles described in paragraphs (3)
2 and (4) of subdivision (a).

3 (3) The Department of Transportation shall determine whether
4 significant high-occupancy vehicle lane breakdown has occurred
5 throughout the state, in accordance with the following timeline:

6 (A) For lanes that are nearing capacity, the Department of
7 Transportation shall make the determination not later than 90
8 days after the date provided by the department under paragraph
9 (2).

10 (B) For lanes that are not nearing capacity, the Department of
11 Transportation shall make the determination not later than 180
12 days after the date provided by the department under paragraph
13 (2).

14 (4) In making the determination that significant
15 high-occupancy vehicle lane breakdown has occurred, the
16 Department of Transportation shall consider the following factors
17 in the HOV lane:

18 (A) Reduction in level of service.

19 (B) Sustained stop-and-go conditions.

20 (C) Slower than average speed than the adjacent mixed flow
21 lanes.

22 (D) Consistent increase in travel time.

23 (5) After making the determinations pursuant to subparagraphs
24 (A) and (B) of paragraph (3), if the Department of Transportation
25 determines that significant high-occupancy vehicle lane
26 breakdown has occurred throughout the state, the Department of
27 Transportation shall immediately notify the department of that
28 determination, and the department, on the date of receiving that
29 notification, shall discontinue issuing the decals, labels, or other
30 identifiers for the vehicles described in paragraphs (3) and (4) of
31 subdivision (a).

32 (h) If the Metropolitan Transportation Commission, serving as
33 the Bay Area Toll Authority, grants toll-free and reduced-rate
34 passage on toll bridges under its jurisdiction to any vehicle
35 pursuant to Section 30102.5 of the Streets and Highways Code, it
36 shall also grant the same toll-free and reduced-rate passage to a
37 vehicle displaying an identifier issued by the department
38 pursuant to paragraph (1) or (2) of subdivision (a) and to a
39 vehicle displaying a valid identifier issued by the department

1 pursuant to paragraph (3) or (4) of subdivision (a) if either of the
2 following apply:

3 (1) ~~The~~ *the* vehicle is registered to an address outside of the
4 region identified in Section 66502 of the Government Code.

5 (2) ~~If the vehicle is registered to an address inside the region,~~
6 ~~the owner of the vehicle complies with subdivision (i) unless~~
7 ~~subdivision (j) is applicable.~~

8 (i) An owner of a vehicle specified in paragraph (3) or (4) of
9 subdivision (a) whose vehicle is registered to an address in the
10 region identified in Section 66502 of the Government Code and
11 who seeks a vehicle identifier under subdivision (a) *in order to*
12 *have access to a high-occupancy vehicle lane leading to a toll*
13 *bridge within the jurisdiction of the Bay Area Toll Authority* shall
14 ~~obtain an~~ *do both of the following:*

15 (1) *Obtain and maintain an active* account to operate within
16 the automatic vehicle identification system described in Section
17 27565 of the Streets and Highways Code and shall submit to the
18 department a form, approved by the department and issued by the
19 Bay Area Toll Authority, that contains the vehicle owner's name,
20 the license plate number and vehicle identification number of the
21 vehicle, the vehicle make and year model, and the automatic
22 vehicle identification system account number, as a condition to
23 obtaining a vehicle identifier pursuant to subdivision (a) that
24 allows for the use of that vehicle in high-occupancy vehicle lanes
25 regardless of the number of occupants.

26 (2) *Be eligible for toll-free or reduced-rate passage on toll*
27 *bridges within the jurisdiction of the Bay Area Toll Authority*
28 *only if, at time of passage, the vehicle meets the passenger*
29 *occupancy rate requirement established for that toll-free or*
30 *reduced-rate passage.*

31 (j) ~~If the automatic vehicle identification system readers on all~~
32 ~~high-occupancy vehicle lanes on all of the toll bridges identified~~
33 ~~in subdivision (a) of Section 30910 of the Streets and Highways~~
34 ~~Code are not fully operational and fully funded with bridge tolls~~
35 ~~controlled by the Bay Area Toll Authority within 90 days of the~~
36 ~~federal government approval described in subdivision (b), then~~
37 ~~subdivision (i) shall not be applicable and both of the following~~
38 ~~shall apply:~~

39 (1) ~~The Metropolitan Transportation Commission, acting as~~
40 ~~the Bay Area Toll Authority, shall grant toll-free and~~

1 ~~reduced-rate passage to all vehicles displaying an identifier~~
2 ~~issued by the department pursuant to subdivision (a).~~

3 ~~(2) The department shall not require documentation that the~~
4 ~~owner of a vehicle registered to an address in the region~~
5 ~~identified in Section 66502 of the Government Code has obtained~~
6 ~~an automatic vehicle identification system account as a condition~~
7 ~~to the issuance of an identifier under subdivision (a).~~

8 ~~(k)~~

9 ~~(j) This section shall remain in effect only until January 1,~~
10 ~~2008, and as of that date is repealed, unless a later enacted~~
11 ~~statute, that is enacted before January 1, 2008, deletes or extends~~
12 ~~that date.~~

13 *SEC. 3. If the Commission on State Mandates determines that*
14 *this act contains costs mandated by the state, reimbursement to*
15 *local agencies and school districts for those costs shall be made*
16 *pursuant to Part 7 (commencing with Section 17500) of Division*
17 *4 of Title 2 of the Government Code.*

18 ~~SECTION 1. The Legislature finds and declares all of the~~
19 ~~following:~~

20 ~~(a) Diesel exhaust is a mixture of smog-forming pollutants;~~
21 ~~particulate matter (PM), nitrogen oxides (NOx), and other toxic~~
22 ~~contaminants, such as arsenic, cadmium, dioxin, and mercury.~~

23 ~~(b) Diesel exhaust particles can cause or exacerbate a wide~~
24 ~~variety of health problems, including asthma and other~~
25 ~~respiratory ailments, and has been linked to cancer and premature~~
26 ~~death.~~

27 ~~(c) Studies indicate that California is the nation's largest~~
28 ~~source of pollution from PM and NOx emissions from~~
29 ~~off-highway diesel use, with Los Angeles ranking as the number~~
30 ~~one metropolitan area with the worst off-road diesel air pollution~~
31 ~~in the country.~~

32 ~~(d) Off-road diesel engine equipment located in California~~
33 ~~ports, construction sites, agricultural areas, and railyards are~~
34 ~~amongst the least regulated sources of diesel pollution.~~

35 ~~(e) Many low-income residents and communities of color live~~
36 ~~in urban and rural areas directly adjacent to port, rail,~~
37 ~~agricultural, and construction activities and bear disproportionate~~
38 ~~levels of concentrated diesel-based air pollution.~~

39 ~~(f) Air quality in the South Coast Air Basin, the San Joaquin~~
40 ~~Valley, and the Sacramento Valley violate the federal one-hour~~

1 ozone standard for PM-10. Failure to meet these federal
2 requirements can jeopardize California's share of transportation
3 dollars.

4 (g) The Carl Moyer Memorial Air Standards Attainment
5 Program funds the incremental cost of cleaner than required
6 engines and equipment in order to significantly reduce NOx and
7 PM from off-road diesel equipment. The reductions provided by
8 this program are critical and necessary for California to meet its
9 federal clean air commitments.

10 (h) To clean up current diesel fuel-related pollution and to
11 protect against further contamination, it is necessary to maintain
12 and direct stable funding to programs that reduce air pollution
13 from off-road diesel sources.

14 (i) Under the Diesel Fuel Tax Law, off-road diesel fuel is
15 exempt from the existing eighteen cents (\$0.18) state excise tax
16 on diesel fuel.

17 (j) A fee of five cents (\$0.05) per gallon of off-road diesel fuel
18 should be studied by the State Air Resources Board pursuant to
19 this act to determine whether a levy of that amount is
20 proportionate to the harm resulting from off-road diesel pollution
21 within the state and is a fair and reasonable means to mitigate the
22 past, present, and future harm to public health resulting from
23 off-road diesel fuel in the state.

24 SEC. 2. On or before March 1, 2006, the State Air Resources
25 Board shall report to the Legislature on the efficacy of imposing
26 a fee of five cents (\$0.05) per gallon of off-road diesel fuel as a
27 means of generating revenue to fund projects that mitigate the
28 past, present, and future harm to public health resulting from
29 off-road diesel fuel in the state.